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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,518	12/27/2001	Akira Aoki	10549/3	9378

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EXAMINER	
BAKER, CHARLOTTE M	
ART UNIT	**PAPER NUMBER**
2626	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/026,518	AOKI, AKIRA	
	Examiner	Art Unit	
	Charlotte M. Baker	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *Application filed on 27 December 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4 and 6-8* is/are rejected.

7)☒ Claim(s) *5 and 9* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12/27/2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 12/28/2000. It is noted, however, that applicant has not filed a certified copy of the Japanese application (2000-402621) as required by 35 U.S.C. 119(b).

Claim Objections

2. Claim 8 is objected to because of the following informalities: replace "system system B" with --system B--. Appropriate correction is required.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-4 and 6-8 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6919970. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Regarding claim 1: Claim 1 of 10/026,518 (hereinafter referred to as '518) corresponds to claim 1 of 6919970 (hereinafter referred to '970) in the following manner:

Claim 1 of '518 discloses in the preamble, in a color image transmission system between a pair of computer image processing systems A and B, a method for calibrating color of a digital image; '518 discloses in the body of the claim, a preparatory operation of setting a correction value; using coming basic color image; a color matching operation applied to any digital image indicated on said monitor; whereby color of said digital image is corrected to a condition that said color of the corrected digital image is substantially matched in view to color of said original color image before transmission.

Claim 1 of '970 discloses in the preamble, a method for calibrating color of an image which is transmitted from a computer image processing system A to a computer image processing system B; '970 discloses in the body of the claim, a preparatory operation for selecting a correction value; applying a color matching operation to said digital image; displaying a digital image corresponding one of said systems A and B, thereafter an initial color matching operation being applied to said digital image to create a modified digital image having substantially identical color to said common standard color image.

Regarding claim 2: Claim 2 of '518 corresponds to claim 2 of '970 in the following manner:

Claim 2 of '518 discloses in the preamble, a method for calibrating color of a digital image in transmission between a pair of computer image processing systems A & B; Claim 2 of '518 discloses in the body of the claim, scanning said basic color image Z

by a scanner of said system A so that a digital image of said basic color Z is indicated on a monitor of said system A; transmitting digital data of said digital image to said system B so that a digital image Z_1 is indicated on the monitor of the system B; carrying out a color matching operation of the digital image Z_1 so that a color modified digital image Z_2 having a color substantially matched to the color of the common basic color image Z; correction value α based upon the color data deviated from initial color data; having color substantially matched in view to the color of said original color image X is indicated on the monitor of said system B.

Claim 2 of '970 discloses in the preamble, a method for calibrating color of an image in transmission from a computer image processing system A to a computer image processing system B. Claim 2 of '970 discloses in the body of the claim, scanning a printed common standard color image Z by said system A and transferring digital data of said scanned standard color image indicated on a monitor of said system A to said second system B whereby a color image Z_1 is indicated on the monitor of the system B; initial color matching operation to said color image Z_1 based upon said printed common standard color image whereby a modified color image Z_2 having substantially identical color to that of said printed common standard color image Z is created; reading a deviation of color data from the original image (zero point) as a correction value; whereby a modified color image being substantially identical to the color of said original printed image is displayed on the monitor of said second system B.

Regarding claim 3: Claim 3 of '518 corresponds to claim 3 of '970 in the following manner:

Claim 3 of '518 discloses in the preamble, a method for calibrating color of a digital image in transmission between a pair of computer image processing systems A & B; Claim 3 of '518 discloses in the body of the claim, scanning said basic color image Z by the scanner of said system A whereby a digital image Z_3 is indicated on he monitor of said system A; applying a conventional color matching operation to correct the color of said digital image Z_3 whereby a color modified digital image Z_4 having a color matched to the color of the basic color image Z is indicated on the monitor of said system A; setting a correction value β based upon color data deviated from initial color data.

Claim 3 of '970 discloses in the preamble, a method for calibrating color of an image in transmission from a computer image processing system A to a computer image processing system B; Claim 3 of '970 discloses in the body of the claim, scanning a printed common standard color image Z in said system A, whereby a digital image Z_3 is displayed on a monitor of said system A; applying a first initial color matching operation to said color image Z_3 based upon said printed common standard color image Z whereby a modified color image Z_4 being substantially identical in color to said printed common standard Z indicated on a monitor of said system A; the deviation of color data from the original image (zero point) being read as a correction value β.

Regarding claim 4: Claim 4 of '518 corresponds to claim 3 of '970 in the following manner:

Claim 4 of '518 discloses in the body of the claim, transmitting said digital data of said digital image Z_4 to said system B so that a digital image Z_5 is indicated on the monitor of said system B; applying said correction value γ whereby a digital image X_6

having a color substantially matched to the color of the digital image X_4 indicated on the monitor of said system A is indicated on the monitor of said system B.

Claim 3 of '970 discloses in the body of the claim, transferring said modified color image to said system B whereby a digital image Z_5 is displayed on the monitor of said system B, and applying a second initial color matching operation to said color image Z_5 based upon said printed common standard color image Z whereby a modified color image Z_6 being substantially identical in color to said printed common standard color image Z is displayed on the monitor of system B; applying a second final color matching operation to said digital image displayed on the monitor of said system B by applying said correction value γ whereby a modified color image being substantially identical to said original printed color image is displayed on the monitor of said system B.

Regarding claim 6: Claim 6 of '518 corresponds to claim 8 of '970 in the following manner:

Claim 6 of '518 discloses in the preamble, a method for calibrating color of a digital image transmission between said systems A & B; Claim 6 of '518 discloses in the body of the claim, an action program based upon said correction value for automatically and successively carrying out color matching operations on said digital image.

Claim 8 of '970 discloses in the preamble, a method for calibrating color of an image in transmission from a computer image processing system A to a computer image processing system B; Claim 8 of '970 discloses in the body of the claim, an action program for carrying out said color matching operation based upon said correction value.

Regarding claim 7: Claim 7 of '518 corresponds to claim 4 of '970 in the following manner:

Claim 7 of '518 discloses in the preamble, a method for calibrating color of a digital image transmitted between said systems A & B; Claim 7 of '518 discloses in the body of the claim, wherein said basic color image Z is a R.G.B. basic color image.

Claim 4 of '970 discloses in the preamble, a method for calibrating color of an image in transmission from a computer image processing system A to a computer image processing system B; Claim 4 of '970 discloses in the body of the claim, wherein said printed common standard color image is an RGB common standard color image.

Regarding claim 8: Claim 8 of '518 corresponds to claim 7 of '970 in the following manner:

Claim 8 of '518 discloses in the preamble, a method for calibrating color of a digital image transmitted between said systems A & B; Claim 8 of '518 discloses in the body of the claim, a correction value ($-\gamma$) is used as the correction value for carrying out the color matching operation applied to transmit a digital image from said system B to system A.

Claim 7 of '970 discloses in the preamble, a method for calibrating color of an image in transmission from a computer image processing system A to a computer processing system B; Claim 7 of '970 discloses in the body of the claim, applying a correction value ($-\gamma$) whereby a color modified new image is displayed on said monitor of system B, transmitting said color modified new image from system B to system A,

whereby a color image having identical color and components to said new color image is displayed on said monitor of system A.

5. These limitations are obvious variations of its respective claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, and 6-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakabayashi et al. (6,628,822).

Regarding claim 1: Nakabayashi et al. disclose after preparation of a basic color image z being common to said systems A & B (Fig. 2, picture processing unit 1-1 and 1-2), a preparatory operation of setting a correction value (col. 25, ln. 42-50) which is applied to said operation of setting a correction value (col. 25, ln. 42-55) which is applied to said operation of calibrating color (col. 25, ln. 42-60) of said digital image indicated on said monitor (Fig. 2, CRT monitor 3 and 4), by using said common basic color image, and a color matching operation (col. 25, ln. 51-60) applied to any digital image indicated on said monitor (Fig. 2, CRT monitor 3 and 4) of either one of said systems A & B (Fig. 2, picture processing unit 1-1 and 1-2) by applying said correction value (col. 25, ln. 42-55) in a condition of confirming the transmission pattern (col. 25, ln. 42-55), whereby color of said digital image is corrected to a condition that said color of

the corrected digital image is substantially matched in view to color of said original color image before transmission (col. 25, ln. 42-60).

Regarding claim 6: Nakabayashi et al. satisfy all the elements of claim 1. Nakabayashi et al. further disclose an operation of setting an action program based upon said correction value (col. 25, ln. 42-50) for automatically and successively carrying out color matching operations (col. 25, ln. 51-60) on said digital image being a target of color matching operations, and installing said action program in said computers of said systems A & B (Fig. 2, picture processing unit 1-1 and 1-2), whereby said color matching operations of a digital image applied to a plurality of independent color images (Fig. 1, soft copy picture 3-1 and 3-2) are successively carried out by said action program (col. 25, ln. 41-60).

Regarding claim 7: Nakabayashi et al. satisfy all the elements of claim 1. Nakabayashi et al. further disclose wherein said basic color image z is a R.G.B. basic color image (col. 25, ln. 51-56).

Regarding claim 8: Nakabayashi et al. satisfy all the elements of claim 1. Nakabayashi et al. further disclose wherein correction value δ (col. 25, ln. 42-50, $L^{+}M^{+}S^{+}$) is once set in a case of transmission from said system A (Fig. 1, soft copy picture 3-1) to said system B (Fig. 1, soft copy picture 3-2), and a correction value ($-\delta$) (col. 31, equation 16, $L'M'S'$) is used as the correction value for carrying out the color matching operation applied to transmit a digital image from said system B (Fig. 1, soft copy picture 3-2) to said system A (Fig. 1, soft copy picture 3-1).

Allowable Subject Matter

8. Claims 2-5, and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if the double patenting rejection (claims 2-4) is overcome and rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charlotte M. Baker whose telephone number is 571-272-7459. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A. Williams can be reached on 571-272-7471. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CMB

KIMBERLY WILLIAMS
SUPERVISORY PATENT EXAMINER